

**FILED**  
DISTRICT COURT OF GUAM  
JUL 11 - 6 2006  
MARY L.M. MORAN  
CLERK OF COURT

Shin,ple

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JI SUNG SHIN,

Defendant.

CRIMINAL CASE NO. 01-00083

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, JI SUNG SHIN, enter into the following plea agreement:

1. The defendant agrees to plead guilty to Count V of an Indictment charging him with Use of a Communication Facility to facilitate drug trafficking, in violation of Title 21, United States Code, § 843(b). The government will move to dismiss Counts I, II, III, IV, and VI upon sentencing.

2(a) The defendant, JI SUNG SHIN, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of trafficking in controlled substances, money laundering and other related offenses. Cooperation shall include providing all information known to defendant regarding any criminal activity, including but not limited to the

1 offense to which he is pleading guilty. Cooperation will also include complying with all  
2 reasonable instructions from the United States; submitting to interviews by investigators and  
3 attorneys at such reasonable times and places to be determined by counsel for the United States;  
4 producing to the United States all non-privileged documents (including claimed personal  
5 documents) and other materials in the possession, custody or control of defendant requested by  
6 attorneys and agents of the United States; and testifying fully and truthfully before any grand  
7 juries, hearings, trials or any other proceedings where defendant's testimony is deemed by the  
8 United States to be relevant. Defendant understands that such cooperation shall be provided to  
9 any state, territorial, local or federal law enforcement agencies designated by counsel for the  
10 United States. Further, it is understood and agreed that defendant shall not directly, indirectly, or  
11 intentionally disclose anything defendant knows or had done concerning the United States'  
12 investigation to anyone other than defendant's attorney. Defendant agrees to take no steps  
13 directly or indirectly to warn any subject of this investigation that defendant, a subject or anyone  
14 else is being investigated.

15  
16 (b) The United States will make this cooperation known to the Court prior to the  
17 defendant's sentencing. The defendant further understands that he remains liable and subject to  
18 prosecution for any criminal schemes of which he does not fully advise the United States, or for  
19 any material omissions in this regard.

20 (c) This agreement is not contingent in any way upon the outcome of any investigation,  
21 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in  
22 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the  
23 success of any prosecution.

24 (d) Except as otherwise herein provided, and in particular in Paragraph 9, the United  
25 States agrees not to prosecute defendant for any other non-violent offenses which were  
26 committed in the District of Guam or the Northern Mariana Islands (CNMI) which defendant  
27 reveals to Federal authorities during his cooperation with the United States. This agreement is  
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1 limited to crimes committed by defendant in the districts of Guam or the CNMI.

2  
3 3. The defendant, JI SUNG SHIN, understands that the maximum sentence for Use of a  
4 Communication Facility to facilitate drug trafficking is a term of four (4) years incarceration, a  
5 \$250,000 fine and a \$100 special assessment fee, which must be paid at the time of sentencing.  
6 Any sentence imposed shall include a term of supervised release of not more than one (1) year in  
7 addition to such terms of imprisonment. Defendant understands that if he violates a condition of  
8 supervised release at any time prior to the expiration of such term, the court may revoke the term  
9 of supervised release and sentence him up to an additional one (1) year of incarceration pursuant  
10 to 18 U.S.C. § 3583(e)(3).

11 (b) If defendant cooperates as set forth in Paragraph 2, the government will recommend  
12 that defendant receive the minimum term of incarceration recommended by the Sentencing  
13 Guidelines.

14 (c) The government will recommend a fine within the Sentencing Guidelines range. If  
15 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
16 full disclosure of his financial status to the United States Attorney's Office by completing a  
17 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.  
18 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

19 4. The defendant understands that to establish a violation of Use of a Communication  
20 Facility to facilitate the distribution of controlled substances as charged pursuant to 21 U.S.C. §  
21 843(b), the government must prove each of the following elements beyond a reasonable doubt:

22 First: that the defendant knowingly and intentionally used a telephone  
23 to help bring about the distribution of more than 50 grams net weight of  
methamphetamine hydrochloride (ice).

24 5. The defendant agrees that the Sentencing Guidelines apply to this offense. The  
25 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,  
26 in calculating the applicable guidelines level. The Government and the defendant stipulate to the  
27 following facts for purposes of the Sentencing Guidelines:  
28

1 (a) The defendant was born in 1962, and is a citizen of the United States.

2 (b) If the defendant cooperates with the United States by providing information  
3 concerning the unlawful activities of others, the government agrees that any self-incriminating  
4 information so provided will not be used against defendant in assessing his punishment, and  
5 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used  
6 in determining the applicable guidelines range.  
7

8 (c) Jun Sok Park was in possession of two kilograms of methamphetamine hydrochloride  
9 (ice) which belonged to the defendant. Between December 1 and December 13, 1999, the  
10 defendant, who was in Korea, had several telephone conversations with Jun Sok Park and Man  
11 Kwan Lee, who were on Guam, concerning the distribution of this ice on Guam. During the  
12 conversations, defendant agreed to sell a kilo of ice belonging to Park as well. Defendant  
13 arranged to have a courier, Tae Up An, fly into Guam on December 13, 1999, and contact Park to  
14 arrange a location to pick up the ice. Defendant told Park that An would meet him at the Dai-  
15 Ichi coffee shop and would be wearing a red hat. Park met An at the Dai-Ichi and agreed to have  
16 three kilos of ice delivered to the Sherwood Hotel for An to pick up. On December 15, the FBI  
17 rented two rooms at the Sherwood and put six ziplock baggies of sham in the safe in room 717.  
18 An received the key to room 717 and picked up the sham, believing it was ice. The ice was to be  
19 sold on Guam, and the profit from the sale of two kilos was to be delivered to defendant in  
20 Korea.

21 The government is unable to prove that defendant was an organizer, leader, supervisor or  
22 manager of his confederates, and believes that defendant qualifies for the Safety Valve as  
23 provided by USSG 5C1.2.

24 (d) The defendant understands that notwithstanding any agreement of the parties, the  
25 United States Probation Office will make an independent application of the Sentencing  
26 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
27 sentencing guidelines range projected by his counsel or any other person, such discrepancies are  
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1 not a basis to withdraw his guilty plea.

2  
3 6. The defendant understands that this plea agreement depends on the fullness and  
4 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should  
5 fail to fulfill completely each and every one of his obligations under this plea agreement, or make  
6 material omissions or intentional misstatements or engage in criminal conduct after the entry of  
7 his plea agreement and before sentencing, the government will be free from its obligations under  
8 the plea agreement. Thus defendant, in addition to standing guilty of the matters to which he has  
9 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other  
10 crimes, and for the counts which were to be dismissed. In any such prosecution, the prosecuting  
11 authorities, whether Federal, State, or Local, shall be free to use against him, without limitation,  
12 any and all information, in whatever form, that he has provided pursuant to this plea agreement  
13 or otherwise; defendant shall not assert any claim under the United States Constitution, any  
14 statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of  
15 Evidence, or any other provision of law, to attempt to bar such use of the information.

16 7. Defendant understands that whether he has completely fulfilled all of the obligations  
17 under this agreement shall be determined by the court in an appropriate proceeding at which any  
18 disclosures and documents provided by defendant shall be admissible and at which the United  
19 States shall be required to establish any breach by a preponderance of the evidence. In  
20 determining whether there has been a breach, the parties agree that any polygraph results and the  
21 polygrapher's conclusions and opinions shall be admissible.

22 8. The defendant understands that his sentencing may be continued, at the sole discretion  
23 of the United States, until after the indictment and trial of any associates involved. This will also  
24 enable the Court to see the full degree of the defendant's cooperation. The defendant therefore  
25 waives any right he may have to any speedy sentencing and hereby agrees to any continuance of  
26 his sentencing date as it may become necessary.

27 9. In exchange for the government's concessions in this plea agreement, the defendant  
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1 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
2 the sentence imposed in this case. The defendant understands and agrees that the government  
3 has bargained for a criminal conviction arising from his criminal conduct. If at any time  
4 defendant's guilty plea or conviction is rejected, withdrawn, vacated or reversed, for whatever  
5 reason, or is rendered invalid for any reason, or if any change of law renders the conduct for  
6 which he was convicted to be non-criminal, defendant agrees that he will enter a guilty plea to  
7 another charge encompassing the same or similar conduct. In such event, defendant waives any  
8 objections, motions or defenses based upon the Statute of Limitations, Speedy Trial Act, or  
9 constitutional restrictions as to the time of bringing such charges.  
10

11 10. The defendant acknowledges that he has been advised of his rights as set forth below  
12 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
13 had sufficient opportunity to reflect upon, and understands the following:

14 (a) The nature and elements of the charge and the mandatory minimum penalty provided  
15 by law, if any, and the maximum possible penalty provided by law;

16 (b) His right to be represented by an attorney;

17 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the  
18 right to be represented by counsel, the right to confront and cross-examine witnesses against him,  
19 and the right not to be compelled to incriminate himself, that is, the right not to testify;

20 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to  
21 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
22 up, the right to a trial;

23 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure  
24 11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court  
25 does not accept the sentencing recommendations of the government or his counsel;

26 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions  
27 about the offenses to which he has pled, under oath, and that if he answers these questions under  
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1 oath, on the record, his answers may later be used against him in prosecution for perjury or false  
2 statement if an answer is untrue;

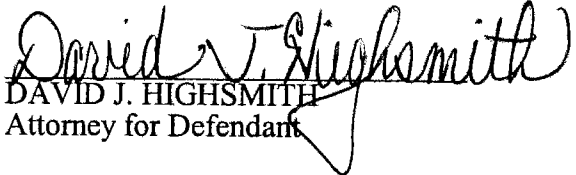
3 (g) That he agrees that the plea agreement is voluntary and not a result of any force,  
4 threats or promises apart from this plea agreement;

5 (h) The defendant is satisfied with the representation of his lawyer and feels that his  
6 lawyer has done everything possible for his defense.  
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9  
10 DATED: July 5, 2006

  
IL SUNG SHIN  
Defendant

11  
12 DATED: 7/5/06

  
DAVID J. HIGHSMITH  
Attorney for Defendant


13  
14  
15 LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and CNMI

16  
17 DATED: 7/5/06

18 By: 

KARON V. JOHNSON  
Assistant U.S. Attorney

19  
20 DATED: 7-7-06

  
RUSSELL C. STODDARD  
First Assistant U.S. Attorney